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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/668,624 | 09/23/2003 | Zvonimir Z. Bandic | HSJ920030180US1 | 2184 |
| 48583 | 7590 | 11/29/2005 | EXAMINER | |
| BRACEWELL & PATTERSON, LLP | | | | DAVIS, DAVID DONALD |
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| HOUSTON, TX 77208-1389 | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2652 | | | | |

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------------------------|-----------------------------------|
| Office Action Summary | Application No. <u>10/668,624</u> | Applicant(s) <u>BANDIC ET AL.</u> |
| | Examiner <u>David D. Davis</u> | Art Unit <u>2652</u> |
| | | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4,6-11,13-19 and 21 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4,6-11,13-19 and 21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION***Double Patenting***

1. Claims 1,4,6-11,13-19 and 21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5,8,10,11 and 13-22 of copending Application No. 10/668,895. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims require a housing; a motor mounted to the housing; a disk mounted to the motor and a cover, which is translucent not transparent mounted to the housing.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott et al (US 4,280,155). As per claim 1, Scott et al shows in figure 1 a hard disk drive 40 including a housing 2 and a motor 16 mounted to the housing 2, as shown in figure 4. Figure 4 also shows a disk 6 or 8 mounted to the motor 16, having a hub 12, and being rotatable relative to the housing

2. Additionally shown in figure 4 is an actuator 10 mounted to the housing 2 and being movable relative to the disk 6 or 8. The actuator 10 has a head 18 or 20 or 22 or 24 for reading data from

and writing data to the disk 18, and a cover 4 is mounted to the housing for covering the disk 6 or 8 and the actuator 10 in the housing 2.

Figures 1 and 2 of Scott et al show cover 4 being translucent but not transparent for allowing observation of at least some movement inside the housing 2 of disk 6 or 8, the hub 12 and the actuator 10 through the cover 4 during operation of the disk drive. See also column 3, lines 9-15.

As per claim 6, Scott et al shows in figure 1, for example, that a portion of the cover is structurally reinforced with materials 40 that are opaque.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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6. Claims 4, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al (US 4,280,155). Scott et al discloses, *supra*, the claimed invention.

However, Scott et al is silent as to the cover being tinted with a color and decorations or pattern on at least one of the disk, the hub, and the actuator, wherein the decorations or a diffraction grating pattern cause appearance of color, and change and movement of color depending on an angle of observation to additionally contribute to an appearance of the hard disk drive.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a tint on a cover or a pattern or decorations on an element with in the disk drive of Scott et al. The rationale is as follows: The purpose of the cover is to protect the elements inside the disk drive and the purpose of the elements in the disk drive are to store information. The cover need not be a particular color and the elements need not have a particular pattern to store information. Realizing this, one of ordinary skill in the art at the time the invention was made would have been motivated to alter the color of a cover or the pattern of elements in a disk drive, which is well within the purview of a skilled artisan and absent an unobvious result, because the change of color or pattern, which is applicable and analogous to printed matter and the differences of printed matter (i.e. color, patterns decorations) cannot afford a basis for different patents. See *Ex parte S*, 25 J.P.O.S. 904 (Bd. Ap. 1943).

7. Claim 7-9 and 13-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al (US 4,280,155) in view of Miyashita (JP 2001-210005). Scott et al shows in figure 1 a hard disk drive 40 including a housing 2 and a motor 16 mounted to the housing 2, as

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shown in figure 4. Figure 4 also shows a disk 6 or 8 mounted to the motor 16, having a hub 12, and being rotatable relative to the housing 2. Additionally shown in figure 4 is an actuator 10 mounted to the housing 2 and being movable relative to the disk 6 or 8. The actuator 10 has a head 18 or 20 or 22 or 24 for reading data from and writing data to the disk 18, and a cover 4 is mounted to the housing for covering the disk 6 or 8 and the actuator 10 in the housing 2.

Figures 1 and 2 of Scott et al show cover 4 being translucent but not transparent for allowing observation of at least some movement inside the housing 2 of disk 6 or 8, the hub 12 and the actuator 10 through the cover 4 during operation of the disk drive. See also column 3, lines 9-15.

Scott et al, however, is silent as to a flashing device, which is a stroboscope, mounted to the housing for making movement inside the housing appear to move at a speed that is less than an actual speed of the movement.

Scott et al is also silent as to the cover being tinted with a color and decorations or pattern on at least one of the disk, the hub, and the actuator, wherein the decorations or a diffraction grating pattern cause appearance of color, and change and movement of color depending on an angle of observation to additionally contribute to an appearance of the hard disk drive.

Miyashita discloses a flashing device, which is a stroboscope, mounted to the housing. Inherent with a stroboscope is making elements appear to move at a speed that is less than an actual speed of the movement.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the disk drive of Scott et al having translucent but not transparent with a stroboscope as taught by Miyashita. The rationale is as follows: one of ordinary skill in

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the art at the time the invention was made would have been motivated to provide a disk drive having a clear top cover with a stroboscope, which makes elements appear to move at a speed that is less than an actual speed of the movement, so as to see the elements with in the disk drive in an aesthetically pleasing manner. See the abstract of Miyashita.

It also would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a tint on a cover or a pattern or decorations on an element with in the disk drive of Scott et al. The rationale is as follows: The purpose of the cover is to protect the elements inside the disk drive and the purpose of the elements in the disk drive are to store information. The cover need not be a particular color and the elements need not have a particular pattern to store information. Realizing this, one of ordinary skill in the art at the time the invention was made would have been motivated to alter the color of a cover or the pattern of elements in a disk drive, which is well within the purview of a skilled artisan and absent an unobvious result, because the change of color or pattern, which is applicable and analogous to printed matter and the differences of printed matter (i.e. color, patterns decorations) cannot afford a basis for different patents. See Ex parte S, 25 J.P.O.S. 904 (Bd. Ap. 1943).

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is 571-272-7572. The examiner can normally be reached on Monday thru Friday between 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

| Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David D. Davis
Primary Examiner
Art Unit 2652

ddd

Information concerning this communication is classified as follows:

Information on this communication is not classified and is exempt from the provisions of 5 U.S.C. 552.

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DAVID D. DAVIS
PRIMARY EXAMINER
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